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EXAMINER

PARADISO, JOHN ROGER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ADAM N. CAPLAN and DAVID C. WALLACE

Appeal 2011-012420
Application 12/290,596
Technology Center 3700

Before: WILLIAM V. SAINDON, SCOTT A. DANIELS, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claims 1, 5-8, 11, and 15-18 under 35 U.S.C. § 103(a) as being unpatentable over Howell (US 7,172,545 B2; iss. Feb. 6, 2007) and Thieman (US 5,956,924; iss. Sep. 28, 1999). Claims 2-4, 9, 10, 12-14, 19, and 20 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

CLAIMED SUBJECT MATTER

Claims 1 and 11 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A process of manufacturing at least a portion of a reclosable package including the steps of:
 - providing a length of zipper material by a spool;
 - providing a length of film;
 - providing a station for sealing the length of zipper material to the length of film;
 - providing a station for inserting clips onto the length of zipper material downstream from the station for sealing, whereby the length of zipper material is sealed to the length of film prior to insertion of the clips;
 - scanning the film for an eye-mark;
 - upon detecting the eye-mark, momentarily stopping the length of zipper material and the length of film and activating the station for inserting clips onto the length of zipper material, and momentarily resuming motion of the film after clips have been inserted on the length of zipper material;
 - providing a first accumulator downstream of the station for inserting clips wherein speed of the length of film and the length of zipper from the first accumulator remains substantially constant; and

providing a second accumulator downstream of the spool whereby the spool can continue to provide the length of zipper material during the step of momentarily stopping the length of zipper material.

OPINION

Appellants argue claims 1, 5-8, 11, and 15-18 as a group. *See* Br. 5-6. We select claim 1 as representative. Claims 5-8, 11, and 15-18 stand or fall with claim 1.

The Examiner finds that Howell discloses each of the features from claim 1 except the station for adding the slider (clip) being downstream from the station for sealing the zipper material, and finds that Thieman discloses this feature. Ans. 4, 5. Appellants do not challenge the Examiner's findings regarding Howell, the Examiner's finding regarding Thieman disclosing a station for adding the slider (clip) downstream from a station for sealing the zipper material, or the Examiner's explanation for the proposed modifications to Howell. *See* Br. 5-6. Instead, Appellants only argue that Thieman fails to disclose a number of features not relied on by the Examiner in the rejection. These arguments are not persuasive because they attack the references individually rather than the combination proposed by the Examiner. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

Thus, we are not apprised of Examiner error and we sustain the rejection of claims 1, 5-8, 11, and 15-18.

DECISION

We AFFIRM the Examiner's decision to reject claims 1, 5-8, 11, and 15-18.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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